

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

HENRY E. DIAZ, II,

Plaintiff,

v.

STATE OF CALIFORNIA,

Defendant.

No. 1:24-cv-01427-KES-EPG

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS TO DISMISS THIS
CASE WITH PREJUDICE AND TO DENY
PLAINTIFF'S MOTION FOR SUMMARY
JUDGMENT AS MOOT

Docs. 7, 11

ORDER DENYING SECOND MOTION FOR
SUMMARY JUDGMENT AND MOTION TO
APPOINT COUNSEL AS MOOT

Docs. 12, 13

Plaintiff Henry E. Diaz II proceeds pro se in this civil case, which is purportedly brought under 42 U.S.C. § 1983. This matter was referred to a United States magistrate judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On December 16, 2024, the assigned magistrate judge entered findings and recommendations, recommending that this case be dismissed, with prejudice and without leave to amend, because the complaint, premised on sovereign citizen ideology, is so meritless that the court lacks subject matter jurisdiction. Doc. 11 at 5-6. Alternatively, the magistrate judge noted that dismissal is warranted based on the lack of an attorney representative given that plaintiff appears to attempt to bring suit on behalf of a corporation. *Id.* at 6-7. The magistrate judge also recommended that Diaz's partial motion for summary judgment (Doc. 7) be denied given the

1 court's lack of subject matter jurisdiction, given the lack of attorney representation, and given that
2 a motion for summary judgment is premature as the defendant in this case has not yet been served
3 or appeared and no discovery has ensued. Doc. 11 at 7.

4 After the findings and recommendations were entered, Diaz filed another similar motion
5 for summary judgment and a motion to appoint counsel. Docs. 12, 13. Diaz also filed timely
6 objections to the findings and recommendations. Doc. 14.

7 In accordance with 28 U.S.C. § 636(b)(1), this Court has conducted a de novo review of
8 this case. Having carefully reviewed the matter, the Court concludes that the findings and
9 recommendations are supported by the record and proper analysis.

10 Diaz's objections do not undermine the analysis of the findings and recommendations.
11 For the reasons stated in the findings and recommendations, the claims in the complaint are
12 meritless regardless of whether Diaz or his purported corporation is the plaintiff. Diaz's
13 objections further reflect that his claims based on sovereign citizen ideology and are devoid of
14 merit.

15 Accordingly, IT IS HEREBY ORDERED that:

- 16 1. The findings and recommendations entered on December 16, 2024, Doc. 11, are
17 ADOPTED IN FULL;
- 18 2. This case is DISMISSED, with prejudice and without leave to amend, for lack of
19 subject-matter jurisdiction;
- 20 3. Plaintiff's motions for summary judgment and motion to appoint counsel are denied as
21 moot (Docs. 7, 12, 13);
- 22 4. The Clerk of the Court is directed to terminate all pending motions and to close this
23 case.

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26 IT IS SO ORDERED.

27 Dated: January 10, 2025


UNITED STATES DISTRICT JUDGE